

Office-Supreme Court, U.S.

FILED

FEB 17 1983

ALEXANDER L. STEVAS,  
CLERK

NO. 82-1316

**In The  
Supreme Court of the United States**

OCTOBER TERM, 1982

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**JOHN DILEO**  
*Petitioner*

v.

**UNITED STATES OF AMERICA**  
*Respondent*

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**PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

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**SUPPLEMENTAL APPENDIX**

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**HUBERT J. SANTOS**

Counsel of Record  
51 Russ Street  
Hartford, CT 06106  
(203) 249-6548

**APPENDIX (2)**

**MOTION AND ORDER OF THE UNITED  
STATES COURT OF APPEALS FOR  
THE SECOND CIRCUIT (HON. WILFRED  
FEINBERG, HON. RICHARD J.  
CARDAMONE AND HON. OSCAR H.  
DAVIS) dated January 11, 1983**

UNITED STATES COURT OF APPEALS

IN RE:	)	DOCKET NO.
Grand Jury Subpoena	)	82-6251
(DiLeo Brothers, Inc.)	)	NOTICE OF
	)	MOTION for

DISMISSAL OF APPELLANT'S APPEAL

MOTION BY:

Peter A. Clark, Assistant United States  
Attorney, FTS 8-645-2108

Has opposing counsel consented? No.

Has service been effected? Yes.

Is oral argument desired? No.

(substantive motions only)

Requested return date:

Date of argument of appeal, if scheduled:

Judge or agency whose order is being

appealed: Ellen Bree Burns, U.S. District  
Judge, District of Connecticut.

OPPOSING COUNSEL:

Hubert J. Santos, Esquire

(203) 249-6548

**EMERGENCY MOTIONS, MOTIONS FOR STAYS &  
INJUNCTIONS PENDING APPEAL**

**Has request for relief been made below?**

**Would expedited appeal eliminate need for  
this motion?**

**If no, explain why not:**

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**BRIEF STATEMENT OF THE RELIEF REQUESTED:**

**Dismissal of Appellant's Appeal.**

**PREVIOUS REQUESTS FOR SIMILAR RELIEF AND  
DISPOSITION:**

**None.**

**STATEMENT OF THE ISSUE(S) PRESENTED BY THIS  
MOTION:**

**Whether the District Court's Order appealed  
from is a final order under Title 28, United  
States Code, Section 1291.**

**BRIEF STATEMENT OF THE FACTS (with page  
references to the moving papers):**

**Appellant DiLeo Moved in the District Court**

to quash a grand jury subpoena directing him to produce certain partnership records. The District Court granted the United States' motion for an in camera hearing on DiLeo's motion, at which DiLeo's testimony would be privileged and at which an Assistant United States Attorney, under a protective order, would be allowed to represent the grand jury. DiLeo appeals the District Court's ruling, seeking, essentially, to prevent the presence of the Assistant United States Attorney at the hearing. (p. 1, Memorandum in Support of Motion to Dismiss and Ex. B).

SUMMARY OF THE ARGUMENT (with page references to the moving papers):

The District Court's Ruling and order scheduling the hearing on DiLeo's motion to quash is not a final order appealable under Title 28, United States Code, Section 1291.

October 22, 1982

Date

/s/ Peter A. Clark  
PETER A. CLARK  
ASSISTANT UNITED STATES ATTORNEY

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ORDER

IT IS HEREBY ORDERED that the motion be and  
it hereby is granted without prejudice.

A. Daniel Fusaro, Clerk

By/s/ Edward J. Guardaro  
Edward J. Guardaro, Deputy Clerk

BEFORE: HON. WILFRED FEINBERG, CH.J.

HON. RICHARD J. CARDAMONE

HON. OSCAR H. DAVIS (FED. CIR.)

Circuit Judges

Jan. 11, 1983  
Date

FILED JANUARY 11, 1983  
A. DANIEL FUSARO, CLERK

(Seal)